

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:09CR166
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
)	
CLYDE PERKINS,)	
)	
Defendant.)	

This matter is before the Court on the Defendant's motion to withdraw or to reconsider its previous order denying the Defendant's appeal from the Magistrate Judge's order denying the Defendant's motion to continue trial (Filing No. 35).

Pursuant to 28 U.S.C. § 636(b)(1)(A) and NECrimR 57.2, the court previously reviewed the order from which this appeal has been taken. In an appeal from a magistrate judge's order on a pretrial matter within 28 U.S.C. § 636(b)(1)(A), a district court may set aside any part of the magistrate judge's order shown to be clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); NECrimR 57.2(c).

The Court has once again carefully reviewed this matter and concludes that Judge Gossett's order is not clearly erroneous or contrary to law. Nevertheless, because of the new information provided in the motion now before the Court the trial will be continued. The motion to withdraw is denied.

IT IS ORDERED:

1. The Defendant's motion to withdraw (Filing No. 35) is denied;
2. The Defendant's motion for reconsideration of this Court's previous order (Filing No. 35) is granted; and
3. The trial in this matter is continued to Tuesday, October 6, 2009.

DATED this 25th day of August, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge